

Exhibit N

CAUSE NO. 2005-38821

ALEJANDRO BENAVIDEZ

Plaintiff,

v.

RAILSERVE, INC.

Defendants.

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§
§
§

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

234th JUDICIAL DISTRICT

**DEFENDANT DEER PARK RAIL TERMINAL, INC.'S RESPONSES TO
PLAINTIFF'S REQUEST FOR DISCLOSURE**


TO: Plaintiff Alejandro Benavidez by and through his attorney of record Wayne D. Collins, Collins & O'Neal, PLLC, 1177 West Loop South 700, Houston TX 77027.

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant Deer Park Rail Terminal, Inc. ("DPRT") serves its Responses to Plaintiff's Request for Disclosure.

Respectfully submitted,

SHEEHY, SERPE & WARE, P.C.

By: _____


Raymond A. Neuer
State Bar No. 14928350

2500 Two Houston Center
909 Fannin Street
Houston, Texas 77010-1003
Tel: (713) 951-1000
Fax: (713) 951-1199

***Attorneys for Defendant
Deer Park Rail Terminal, Inc.***

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded to all known counsel of record in accordance with the Texas Rules of Civil Procedure on this the 9th day of October 2006.

A handwritten signature in black ink, appearing to read 'R. Neuer', is written above a horizontal line.

Raymond A. Neuer

1056207_1.DOC

**DEFENDANT DEER PARK RAIL TERMINAL, INC.'S RESPONSES TO
PLAINTIFF'S REQUEST FOR DISCLOSURE**

- (a) The correct names of the parties to the lawsuit;

RESPONSE: Alejandro Benavidez
Railserve, Inc.
Deer Park Rail Terminal, Inc.
US Development Group, Inc.

- (b) The name, address, and telephone number of any potential parties;

RESPONSE: None known at this time.

- (c) The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);

RESPONSE: DPRT owed no duty to Plaintiff. DPRT was not the owner of the premises at the time of the incident forming the basis of this lawsuit. DPRT is not a common carrier and has no FELA liability. No act or omission on the part of DPRT was a proximate cause of damages to Plaintiff. Plaintiff's claims are barred by the doctrine of contributory negligence. The Plaintiff's work was supervised and controlled by Railserve, Inc., not DPRT.

- (d) The amount and any method of calculating economic damages;

RESPONSE: DPRT is not claiming economic damages in this case.

- (e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

RESPONSE: Alejandro Benavidez
4418 W. Pasadena Blvd.
Deer Park, TX 77536
281-478-4703
Plaintiff

David Jones
Railserve, Inc.
5100 Underwood Road
Pasadena, TX 77507
Site Leader

Herman Bennett
Railserve, Inc.
5100 Underwood Road
Pasadena, TX 77507
281-457-2038
Crew Leader

Devon Stroud
Railserve, Inc.
5100 Underwood Road
Pasadena, TX 77507
832-867-1083
Operator

Mike Henderson
Railserve, Inc.
5100 Underwood Road
Pasadena, TX 77507
281-639-1161
Yardmaster

Rick Orms
Regional Leader
Railserve, Inc.
DPRT - Deer Park Rail Terminal
5100 Underwood Road
Pasadena, TX 77507

Tim Benjamin
Railserve, Inc.
1691 Phoenix Boulevard, Suite 110
Atlanta, GA 30349

Paul Tucker
U.S. Development
[address to come]

Deputy A. Alanis
Harris County Sheriff's Office
Unit 4377
14350 Wallsville
Houston, TX 77049
713-455-8050

(f) For any testifying expert:

- (1) The expert's name, address, and telephone number;
- (2) The subject matter on which the expert will testify;
- (3) The general substance of the expert's mental impressions and opinions had a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) If the expert is retained by, employed by, or otherwise subject to the control of the responding party;
- (A) All documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipate of the expert's testimony; and
- (B) The expert's current resume and bibliography;

RESPONSE: DPRT has not designated experts at this time. DPRT will supplement this response to Request for Disclosure at a later date.

(g) Any discoverable indemnity and insuring agreements;

RESPONSE: See the certificate of insurance produced in response to Request for Production reflecting that workers compensation insurance was provided to Mr. Benavidez at the time of the accident forming the basis of this case.

(h) Any discoverable settlement agreements;

RESPONSE: None.

(i) Any discoverable witness statements;

RESPONSE: See witness statements produced in response to Request for Production by Railserve, Inc.

(j) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;

RESPONSE: Counsel for DPRT is in possession of the medical records regarding the Plaintiff which are available for inspection and copying at the offices of Sheehy, Serpe & Ware, P.C. at a mutually convenient date and time.

- (k) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

RESPONSE: Not applicable.

- (l) The name, address, and telephone number of any person who may be designated as a responsible third party.

RESPONSE: Unknown at this time.

ACORD CERTIFICATE OF LIABILITY INSURANCECSR CH
DEERP-1DATE (MM/DD/YYYY)
10/04/06

PRODUCER Brown & Brown of Texas, Inc. PO Box 670728 Houston TX 77267-0728 Phone: 281-260-2000 Fax: 281-260-3065		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Deer Park Rail Terminal 9500 New Century Drive Pasadena TX 77507		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A Lexington Insurance Company	19437
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	2241810	04/01/05	04/01/06	EACH OCCURRENCE \$ 30,000,000 AGGREGATE \$ 60,000,000 \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER**CANCELLATION****SAMCE01****Sample Certificate**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL **10** DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

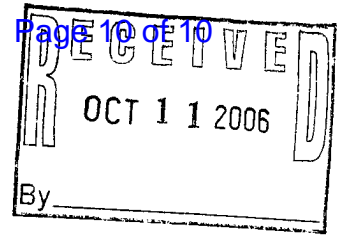
IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



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October 9, 2006

RAYMOND A. NEUER
DIRECT LINE (713) 951-1027
E-MAIL RNEUER@SSWPC.COM

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2200 MARKET STREET, SUITE 700
GALVESTON, TEXAS 77550
(409) 621-1818

Mr. Wayne D. Collins
Collins & O'Neal, PLLC
1177 West Loop South 700
Houston TX 77027

Via CMRRR 7004 1160 0007 3515 7447

Re: Cause No. 2005-38821; *Alejandro Benavides v. Railserve, Inc.*; In the 234th
Judicial District Court of Harris County, Texas

Dear Wayne:

Enclosed please find the following:

- (1) Defendant Deer Park Rail Terminal, Inc.'s Responses to Plaintiff's Request for Disclosure; and
- (2) Defendant U.S. Development Group, Inc.'s Responses to Plaintiff's Request for Disclosure.

Thank you for your attention to this matter. If you have any questions, please call.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Neuer".

Raymond A. Neuer

Enclosures
RAN/nmc
1060113_1.DOC